

**Planning & Zoning Commission Meeting
County Administrative Offices, Duchesne, Utah
August 5, 2009 - 5:00 p.m.**

In Attendance were:

Randy Mair, Planning Commission - Chairperson
Shelly Fabrizio, Planning Commission
Leon Sweat, Planning Commission
John Jorgensen, Planning Commission
Kent Olsen, Planning Commission
Chris Peatross, Planning Commission
Dean Burton, Planning Commission
Mike Hyde, Community Development Administrator
CoraLee Sanchez, Planning Secretary

Visitors:

Lillis Tonks	ITL-Evaporation Pond
Lorin Tonks	ITL-Evaporation Ponds
Dale Rasmussen	ITL-Evaporation Ponds
Becky Rasmussen	ITL-Evaporation Ponds
Larry Skow	ITL-Evaporation Ponds
Renni Smith	ITL-Evaporation Ponds
Todd Bro	ITL-Evaporation Ponds
Moreen Henderson	ITL-Evaporation Ponds
Geoff Liesik	Uintah Basin Standard
Linda Watson	Nile Chapman Construction
Rick Stott	Nile Chapman Construction
Jean Stott	Nile Chapman Construction
Junior Jessen	Nile Chapman Construction
Shon McKinnon	Gravel Pit
Ralph Anderson	Gravel Pit
Carl Armknecht	Rezone
Robert Teters	Gravel Pit
Tara Kinney	Gravel Pit
Scott Hacking	DEQ
Joe Arnold	
Doug Wootton	Tri County Health Department
Ryan Chapman	RNI
Roger Chapman	RNI
Chris Chapman	RNI

Chairperson Mair opened the meeting at 5:00 PM.

Chairperson Mair asked if any of the Planning Commission had any ex-parte contacts associated with either item on the agenda. Mr. Hyde stated he and Commissioners Mair and Jorgensen along with Commissioner Olsen met at Iowa Tanklines on July 30th. Also Commissioners Sweat, Peatross and Olsen met on August 4th visited the site to make some observations. Commissioner Fabrizio stated she owns property next to Whisper Canyon LC which is the rezone request for Nile Chapman Construction on the agenda. There were no objections as a result of those disclosures, so the hearing proceeded.

PUBLIC HEARINGS:

- A. Continuation of public hearing on review of the Conditional Use Permit granted August 6, 2008 to Todd Bro, Iowa Tanklines Water Recovery, to determine if prompt action to control and eliminate odors at their produced water disposal facility on the BLM Fence Road has been taken in accordance with permit conditions.**

Mr. Hyde stated on July 1st the Planning Commission had a public hearing concerning the odor problems at the Iowa Tanklines site at 8500 West BLM Fence Road. The public hearing was recessed to August 5, 2009 at 5:00 PM. The applicant was required to immediately provide the county with an odor treatment plan outlining the treatment methods and steps that will be taken to control and eliminate odors. When the public hearing is re-opened, if the applicant has not provided an odor treatment plan, no new produced water may be received at the facility. When the public hearing is re-opened, progress shall be evaluated based on the complaint log and any test results available also the site visits on July 30th and August 4th. If progress is being made toward odor elimination, the Planning Commission may grant an additional 30-day period for odor control measures to fully take effect, in lieu of an order to cease receipt of water.

Mr. Hyde stated the odor treatment plan was provided to the County on July 9th. Also, the operators provided a detailed explanation of what had been done. There is a spread sheet in your packet that shows the expenditures for odor control measures and operating costs. Also Mr. Hyde stated there is a copy of the complaint log in your packets. Complaints dated from May 1st thru August 5th, the visits to the facility on July 30th and August 4th. The log will show the complaints have subsided considerably. Mr. Hyde explained the different stages and quality of the water in each pond, there was a slight petroleum odor on August 4th in the second pond.

Mr. Hyde stated it is his recommendation to the Planning Commission that the operators of this facility have taken prompt action to control and eliminate odors, and that the complaint log shows sufficient progress. An additional 30-day period can be granted to allow odor control measures to more fully take effect. The public hearing should be recessed to September 2, 2009 under this option.

Commissioner Mair asked if there were any questions at this time. There were none, so the hearing was re-opened.

Mr. Todd Bro stated he does not have anything further to say and asked if the Planning Commission had any questions. There were none

Dale Rasmussen stated the calls for the complaints were legitimate and that they were the produced water odor. The first two weeks of July, the odors were strong and the last two weeks they feel the odors have subsided. Iowa Tanklines has done what the residents and the Planning Commission had recommended. Mr. Rasmussen also stated RNI should have the same motion that was implemented to ITL to reduce the odors from that facility.

Commissioner Peatross and Mr. Hyde had some discussion and comments about the continuation of this hearing being included with RN Industries ponds and odor problems at that facility and what recommendations need to be taken.

Mr. Hyde invited Mr. Chapman from RNI to speak.

Roger Chapman, President of RNI, stated they have treated the water from the beginning. With the limited water at the facility, it is hard to circulate the water and keep it fresh. We have not even had a chance to get the operation running at capacity. Also we are monitoring the ponds and checking the wind direction multiple times daily. RNI is comfortable with the way they run their operations. Mr. Chapman stated there are times the ponds do smell and does not feel there will be a big problem.

Commissioner Sweat asked Mr. Chapman how long will it take to get the volume for the circulation process to be productive and cut the odor. Mr. Chapman replied approximately 3 months depending on the water flow.

Mr. Hyde asked Mr. Chapman what type of circulation does RNI use. Mr. Chapman replied their program is superior to ITL's methods.

Commissioner Burton asked Mr. Chapman if RNI was treating the water at this point

and if so what kinds of treatment are you using. Mr. Chapman replied they started treating with the first few loads with a biological treatment that does need circulation to keep it going.

Commissioners Jorgensen and Peatross are concerned that the Planning Commission can deal with the RNI issues at this point and what kinds of testing is available to be done in the future to control any problems.

Commissioner Jorgensen motioned to recess the public hearing until September 2, 2009 to give ITL an additional 30-day period to allow odor control measures to more fully take effect. Commissioner Sweat seconded the motion and it passed unanimously.

B. Request by Nile Chapman Construction for a Conditional Use Permit to operate a gravel pit and rock crusher on 40 acres of land owned by Ned B. Mitchell, Inc., located north of Highway 35, between Highway 87 and the River Road, in the Utahn area.

Mr. Hyde referred the Planning Commission to the aerial photos in their packets and stated the applicants are proposing to conduct gravel mining and rock crushing operations on 40 acres of land located in the SW ¼ of the SE ¼ of Section 36, Township 2 South, Range 5 West, in the Utahn area, north of Highway 35 between Highway 87 and the River Road. This activity requires a Conditional Use Permit in the Agricultural-Residential (A-5) zone. In the past, Ned Mitchell Construction, the property owner, conducted similar activities on the southwest portion of this site.

Mr. Hyde also stated there are some general use criteria in granting the Conditional Use Permit as follows.

The proposed use at the proposed location will not be unduly detrimental or injurious to property or improvements in the vicinity and will not be detrimental to the public health, safety or general welfare.

Mr. Hyde stated the zoning code contains a ¼ mile (1,320 foot) separation distance from rock crushers to residential units to help mitigate the public health, safety and welfare impacts of such operations (predominately noise and dust). In this case, the closest secondary residence is located on the George Taylor property, about 1,900 to the southwest of the crusher site, as shown on the aerial photos. The nearest primary residence appears to be on the Leo Brady property, about 2,700 feet to the southwest of the site on the River Road. Because of the distance and if the use complies with dust and noise standards, it will not be injurious to public health, safety or welfare.

That the property on which the use, building or other structure is proposed is of adequate size and dimensions to permit the conduct of the use in such a manner that will not be materially detrimental to adjoining and surrounding properties.

Mr. Hyde stated the proposed mining will take place on a 40-acre parcel, with the first phase taking place on five acres on the south side of the parcel. This parcel is large enough and situated remote from developed areas so that detrimental impacts on other properties will be minimized. If standard conditions are imposed regarding noise and dust control, the proposed use will be acceptable at this location.

Mr. Hyde also stated there are special minimum conditions for extraction of earth products:

1. Must be maintained in a near dust-free condition. A dust control plan shall be provided by the applicant to the county, the Tri-County Health Department and the Utah DEQ. Watering the site and street during times of operation is considered maintaining a near dust-free condition.

Mr. Hyde stated the applicants indicate that the pit and crusher will operate in accordance with Utah DEQ air quality standards, under a valid DEQ permit. Dust will

be controlled using water sprays on the crusher and water trucks, with water hauled from an approved source. The detailed dust control plan must be presented to the TriCounty Health Department for review and approval prior to starting operations.

2. A bond shall be issued in the amount of one five thousand dollars (\$5,000.00) for the first acre and three thousand dollars (\$3,000.00) for each additional acre from which such material is taken as a guarantee of reconditioning. The number of acres must be specified on the Conditional Use Permit and cannot be enlarged or modified until the issue is re-presented to the Planning Commission for a new Conditional Use Permit and the enlargement or modification is approved.

Mr. Hyde stated the bonding for 5 acres of disturbance would be \$17,000.00. The applicant plans to consecutively disturb and reclaim five acre sections of the 40-acre parcel, reducing overall bonding costs. A bond in the appropriate amount will need to be received by the County prior to the start of mining operations and maintained during the course of operations.

3. Reconditioning in a manner agreed to by the County, the property owner and the applicant, to assure the surrounding property is protected along with the beauty of the landscape.

Mr. Hyde stated the reconditioning must occur after the conclusion of mining operations on the site in accordance with the "Material Pit Finishing" standards included in the agenda.

4. Rock crushing operations must be a minimum of one thousand three hundred twenty feet from any city, town or residential use.

Mr. Hyde stated the 1,320-foot rule is met in this case, with the nearest residential uses found being over ¼ mile to the southwest of the site. The county Nuisance Ordinance sets forth time limits during which construction noise is permitted (7:00 AM to 9:30 PM on weekdays, 8:00 AM to 9:30 PM on Saturdays and 9:00 AM to 9:30 PM on Sundays and holidays). The applicant proposes operating hours of 6:00 AM to 10:00 PM. If noise complaints are received, the applicant will be required to comply with the time limits for construction set forth in the Nuisance Ordinance.

Mr. Hyde stated the Utah Division of Oil, Gas and Mining has indicated that their office does not regulate this type of mining. Also the Utah Department of Transportation notes that the proposed operation is accessed by a private road connecting to Utah Highway 35 through property owned by UDOT and by Mr. and Mrs. W. C. Wilson of Duchesne. Fess Scott, Region 3 UDOT, has been contacted by the applicant and granted written approval of the access road. He will specify that the applicants clean up any mud or rock that is tracked onto the highway and that they not excavate on UDOT's property. The applicants have a verbal agreement with Mr. Wilson to cross his land for this purpose. If the Conditional Use Permit is granted, this permission must be obtained in writing and provided to the County.

Mr. Hyde stated it is his recommendation to the Planning Commission to approve the Conditional Use Permit requested by Nile Chapman Construction, Inc., subject to the following conditions:

1. Applicant shall control dust and noise so neither becomes a nuisance.
 - a. A dust control plan, approved by the TriCounty Health Department, shall be implemented throughout the course of the operations.
 - b. Applicant shall comply with the construction activity noise time limits of the Nuisance Ordinance if complaints are received about the 6:00 AM to 10:00 PM operating hours proposed.
2. Applicant shall maintain a reclamation bond in effect during the course of the mining operations. The bond shall name the County as a beneficiary to the level of at least

\$5,000.00 for the first acre and \$3,000.00 per additional acre to be disturbed at any one time.

3. Applicant agrees to reclaim the site at the conclusion of mining operations in a manner acceptable to Duchesne County and the property owner pursuant to the "Material Pit Finishing" standards attached to this letter.
4. Applicant shall obtain written permission from Mr. and Mrs. W. C. Wilson to access the site or arrange for an alternate access route.
5. Applicant shall provide the county with a copy of the DEQ air quality permit for the crusher prior to operations at this site. The requirements of the DEQ air quality permit shall also be requirements of the Conditional Use permit.

Mr. Hyde asked if there were any questions at this time. There were none

Commissioner Mair asked the applicant to speak.

Ryan Chapman, manager, Chapman Construction, stated the gravel pit is an existing pit and they would be able to adjust the working hours to meet the needs of the area residents.

Commissioner Sweat asked Mr. Chapman what kind of crusher they would be using. Mr. Chapman stated it would be a cone crusher.

Commissioner Mair asked if there were any other questions.

Ralph Anderson owns property just south of the crusher location and has concerns about the dust, noise and traffic problems and who to be in contact with if these problems arise. Mr. Hyde stated to call the planning office and he will contact the Chapman Construction and make sure they are in compliance with their permit.

Commissioner Mair asked if there were any other questions. There were none.

Commissioner Burton motioned to approve the conditional use permit as requested by Nile Chapman Construction subject to the conditions as stated in the staff report. Commissioner Jorgensen seconded the motion and it passed unanimously.

C. Recommendation to the County Commissioners regarding a request by Nile Chapman Construction to rezone 80 acres of a 340-acre parcel owned by Whisper Canyon LC, from A-2.5 to A-5. The property is located on the east side of the Tabby Swale Road, northwest of Hanna.

Mr. Hyde stated the applicant requested a Conditional Use Permit for a gravel pit and rock crusher in this area and referred the commission to the aerials in their packets. The acreage is not zoned for such uses, so the applicant is proposing to rezone 80 acres of a 340-acre parcel from Agricultural (A2.5) to Agricultural (A-5). Not only would the proposed zoning increase the minimum lot size on the property from 2.5 to 5 acres, it would allow for additional land uses, which are shown in Section 17.12.030 of the Zoning Ordinance. If the proposed rezone is granted, the following additional land uses would be permitted on the property: Airstrip, billboard, campground, cemetery, concentrated animal feeding operation, junk yard, livestock auction, produced water disposal, sawmill and surface or subsurface mining. The application states that the applicant would like the ability to operate a gravel pit at this location, which requires this rezone first; then a conditional use permit.

Mr. Hyde also stated the proposed rezone will go before the County Commissioners in a public hearing on August 17th at 1:30 p.m.

Mr. Hyde stated there are criteria for approving the rezone;

1. The overall community benefit of the proposed amendment.

Mr. Hyde stated changing the 80 acres from A2.5 to A5 zoning, by itself, has very little impact on the community other than to decrease the potential density of development.

However, the proposed amendment would allow several new land uses to occur on the property as listed above. Of the new uses, only a cemetery and a livestock auction could be placed there without another Planning Commission hearing. The community benefits could be better evaluated when the proposed use (a gravel pit) is considered by the Planning Commission during the required conditional use permit hearing.

2. Consistency with the goals and policies of the general plan;

Mr. Hyde stated the General Plan contains the following statements regarding private land use:

“Duchesne County feels that residential, commercial, and industrial development on private land should be allowed to continue in a responsible manner and in locations that contribute to the economic and social well-being of County residents. The County will continually review and amend its existing ordinances as necessary to accurately and adequately reflect the land-use preferences of Duchesne County residents.”

The rezoning criteria of Section 17.16.030 of the zoning ordinance are established to aid the Planning Commission in determining which land use districts are appropriate in specific areas of the county. If those criteria are met, it can be presumed that the proposal will be consistent with the general plan.

3. Compatibility with the neighborhood;

Mr. Hyde referred the commissioners to the aerial photos show that the neighborhood consists of rural residential development in an agricultural setting. The proposed zone change continues a form of agricultural-residential zoning, which matches the zoning in Section 8, Township 1 South, Range 8 West, to the west. Sections to the north and east have the A2.5 zoning and A-10 zoning exists to the south on state lands (see zoning map). Compatibility of the proposed use (gravel pit) is best determined during the conditional use permit process. Rock crushers associated with gravel pits are required to be located at least ¼ mile from residences.

4. What changes have occurred in the neighborhood since the zoning ordinance & map or latest amendment was enacted;

Mr. Hyde stated there have been a few changes in this neighborhood, with the exception of at least one new home, constructed by the Iversons, on the Tabby Swale Road, just west of Highway 35.

5. Whether a change in the use for the affected properties will unduly affect the uses for adjoining properties;

Mr. Hyde stated the proposed rezone is from one type of Agricultural zoning to another, (A2.5 to A-5) where the minimum lot size and permitted uses change. Whether the proposed change of use will unduly affect the use of adjoining properties would be evaluated should the applicant proceed to seek a conditional use permit for a gravel pit.

6. Consider the interest of the applicant.

Mr. Hyde stated the applicants would like to rezone the property to enable them to pursue a land use that is not presently permitted in the current zone (gravel pit). A list of all the new potential uses associated with the A5 zone appears at the beginning of this report. All of these new uses, with the exception of cemeteries and livestock auctions, would require a Conditional Use permit and another public hearing by the Planning Commission.

Mr. Hyde stated based on these findings the Planning Commission could recommend approval to the County Commissioners, however I have prepared Findings for Denial if after the public hearing the Planning Commission recommend denial of the applicants

request for the rezone.

Mr. Hyde outlined the changes in the Findings for Denial should the Planning Commission chose to not recommend to the County Commissioners the applicants request for the rezone.

Mr. Hyde asked if there are any questions of the staff report.

Commissioner Jorgensen is concerned about the one way bridge. Mr. Hyde stated after speaking to the County road department they have not expressed any concerns at this time. Logging trucks have been using the bridge.

Commissioner Sweat asked Mr. Hyde if this has always been a 2.5 acre zone. Mr. Hyde Replied, in 1999-2000 era (or when the Hanna Water line was put in), the zone changed to R-1 and referred the commissioners to the zoning map for the other different zones.

Commissioner Mair had a question about the commercial zone in section 10. Mr. Hyde replied that was an RV park.

Commissioner Mair asked if there were any other questions.

Ryan Chapman manager of Chapman Construction stated this purpose of the rezone and conditional use permit is to maintain the roads on the Whisper Canyon Ranch and minimal selling to the public if there is a need. Also Mr. Chapman stated the roads will be maintained to protect their vehicles. Chapman Construction will have the permits required by the DEQ for the dust and water issues.

Commissioner Burton asked Mr. Chapman if the company will travel to hwy 35. Mr. Chapman stated there would be minimal traffic to Hwy 35, the product will, for the most part, stay on the ranch.

Mr. Hyde asked what percentage will be on the ranch and what will be sold. Mr. Chapman replied he was not sure at his time.

Commissioner Jorgensen asked Mr. Chapman if the same crusher will be used on Whisper Canyon as will be on the pit in the Utahn area and how long will they operate the facility. Mr. Chapman replied it would be the same crusher and would operate the facility late winter and early spring to avoid hunters and tourists.

Commissioner Burton asked what amount of acreage will be mined in the beginning. Mr. Chapman replied five acres to begin with for the bonding issues.

Commissioner Mair asked if there were any other questions.

Carl Armknecht, owner of recreational property on Tabby Swale Road has some concerns about the site and the different areas that could be mined on the 13,000 acre ranch.

Commissioner Peatross stated this is a rezoning hearing; asking Mr. Armknecht if he has any concerns about the rezone issue. Commissioner Peatross and Mr. Armknecht have some discussion about the 2.5 versus the 5 acre zones.

Rick Stott, a Tabiona resident lives at the end of the pavement on the Tabby Swale Road. His concerns are for the air quality and increased truck traffic on a small one lane road. Mr. Stott proposes the Planning Commission give the applicant a temporary permit for the crusher and not rezone the property, He asked why the applicant is needing to rezone 80 acres. Mr. Stott stated his opposition to the rezone application without an agreement between the applicants and residents in the area. Mr. Stott is also concerned if the applicants are going to drill a well or purchase a hook up from Hanna Water, for dust control.

Commissioner Jorgensen explained what the applicants will need to do to get a well permit.

Commissioner Sweat and Mr. Stott had some discussion about the dust control and road issues and what the applicants will need to do.

Mr. Hyde commented on what will happen as far as the dust control if the conditional use permit rezone is approved.

Linda Watson, a Tabby Swale Road resident has lived there for 14 years. Her concerns are about the dust and the lack of maintenance on the county road and is opposed to both the zone change and gravel pit.

Commissioner Mair asked if there were any other questions. There were none.

Ryan Chapman stated the area in question has better rock base and thinks the dust will be minimal in this area and the access is better than most. The roads will be taken care of to protect our trucks.

Mr. Hyde asked Mr. Chapman what they will be doing for water. Mr. Chapman stated they have not decided on the source at this time.

Commissioner Jorgensen asked Mr. Chapman about moving the crusher on and off site. Mr. Chapman stated they would stock pile the product while working a 5-day week. Also Mr. Chapman stated the reason for the 80 acre site is the company is looking for future development.

Commissioner Peatross had some comments about the rezone process.

Mr. Hyde asked Mr. Chapman if the applicants were willing to reduce the 80 acres down to a smaller portion east of the Tabby Swale road. Mr. Chapman replied they would like to have the 80 acres rezoned.

Commissioner Olsen asked what the time frame would be to use the initial 5 acre site. Mr. Chapman was not sure depending on when they could start and the weather conditions.

Commissioner Mair asked if there were any other questions or comments at this time. There were none, so the hearing was closed.

Commissioner Fabrizio motioned that the Planning Commission adopt the findings and conclusions herein and recommend approval of this rezone from Agricultural Residential (AR-2.5) to Agricultural-Residential (AR-5) to the County Commissioners.

Commissioner Olsen seconded the motion. All in favor, Commissioners Jorgensen, Fabrizio, Olsen and Mair. Opposed to the motion were Commissioners Sweat, Burton and Peatross. The recommendation passed with a 4-3 vote.

Mr. Hyde stated the County Commission hearing will be August 17th at 1:30 p.m.

D. Request by Jake Huffman Enterprises for a Conditional Use Permit to extract earth products (gravel pit and rock crusher) on approximately five acres of a 40-acre parcel owned by the Donna Clayburn Trust, located between the Lake Boreham Road and the Duchesne River in the Bridgeland area.

Mr. Hyde referred the Planning Commission to some photos in their packets showing the existing gravel pit that has been idle. The applicant would like to reactivate the site that was previously operated by both Burdick Paving and Ned Mitchell construction.

Mr. Hyde stated the zoning code contains a ¼ mile (1,320 foot) separation distance from rock crushers to residential units to help mitigate the public health, safety and welfare impacts of such operations (predominately noise and dust). In this case, the nearest homes (owned by Reed and Chet Clayburn) are located along the Lake Boreham Road, which is at least ¼ mile north of the proposed crusher site. Because of the distance and if the use complies with dust and noise standards, it will not be injurious to public health, safety or welfare.

Mr. Hyde also stated the proposed mining will take place on a 40-acre parcel, with the first phase taking place on one acre on the south side of the parcel. Up to five acres total will be utilized. This parcel is large enough and situated remote from developed areas so that detrimental impacts on other properties will be minimized. If standard conditions are imposed regarding noise and dust control, the proposed use will be acceptable at this location.

Mr. Hyde stated the applicants indicate that the pit and crusher will operate in accordance with Utah DEQ air quality standards, under a valid DEQ permit. Dust will be controlled using water sprays on the crusher and water trucks, with water hauled from an approved source. A detailed dust control plan must be presented to the TriCounty Health Department for review and approval prior to starting operations.

Mr. Hyde stated the bonding for 1 acre of disturbance would be \$5,000.00. The applicant plans to consecutively disturb and reclaim one acre sections of the approximate 5 acres available, reducing overall bonding costs. A bond in the appropriate amount will need to be received by the County prior to the start of mining operations and maintained during the course of operations.

Mr. Hyde stated also the reconditioning must occur after the conclusion of mining operations on the site in a manner complying with the "Material Pit Finishing" standards. Rock crushing operations must be a minimum of one thousand three hundred twenty feet from any city, town or residential use. The 1,320-foot rule is met in this case, with the nearest residential uses found being at least ¼ mile north of the site along the Lake Boreham Road. The county Nuisance Ordinance sets forth time limits during which construction noise is permitted (7:00 AM to 9:30 PM on weekdays, 8:00 AM to 9:30 PM on Saturdays and 9:00 AM to 9:30 PM on Sundays and holidays). The applicant proposes operating hours of weekdays, 9:00 AM to 4:00 PM, which complies with the Nuisance Ordinance.

Mr. Hyde stated it is his recommendation that the Planning Commission approve the Conditional Use Permit requested by Jake Huffman Enterprises, on the Clayburn property, subject to the following conditions:

1. Applicant shall control dust and noise so neither becomes a nuisance.
 - a. A dust control plan, approved by the TriCounty Health Department, shall be implemented throughout the course of the operations.
 - b. Applicant shall comply with the construction activity noise time limits of the Nuisance Ordinance.
2. Applicant shall maintain a reclamation bond in effect during the course of the mining operations. The bond shall name the County as a beneficiary to the level of at least \$5,000.00 for the first acre and \$3,000.00 per additional acre to be disturbed at any one time.
3. Applicant agrees to reclaim (re-contour) the site at the conclusion of mining operations in a manner acceptable to Duchesne County and the property owner pursuant to the "Material Pit Finishing" standards attached to this letter.
4. Applicant shall provide the county with a copy of the DEQ air quality permit for the crusher prior to operations at this site. The requirements of the DEQ air quality permit shall also be requirements of the Conditional Use permit.

Mr. Hyde asked if there were any questions of the Staff Report.

Commissioner Mair asked Mr. Hyde if there will be issues with the river. Mr. Hyde stated the proposed site is on the bench north of the river. The applicants would need to operate in a way there will be no erosion toward the river and referred the commission to the aerial photos in their packets.

Commissioner Jorgensen asked where the access to the site is. Mr. Hyde stated there are existing roads from the previous operation to the Lake Boreham road to the north. Also, the road will need to be upgraded.

Commissioner Mair asked if there were any other questions. There were none so the applicant was asked to speak.

Shon McKinnon, a representative of Jake Huffman Enterprises, stated it was their intent to have a smooth operation. Mr. McKinnon stated, with this small operation, the river aesthetics and visual resources should be maintained.

Commissioner Mair stated silt fencing is required in this kind of operation. Mr. McKinnon stated the applicant will stay within the buffers and footprints of the previous operators. Also, Mr. McKinnon stated Steven Clayburn (property owner) is aware of the conditions of this permit and supports their efforts.

Commissioner Jorgensen asked Mr. McKinnon how large is the proposed extension. Mr. McKinnon replied the extension of what the original footprint was. Mr. McKinnon also stated for the concerns of any residents in the area, this is a relatively small operation with a very small crusher and are hopeful the dust will be at a minimum.

Commissioner Mair asked if there were any other questions. There were none. Since no one wished to speak in opposition, the public hearing was closed.

Commissioner Sweat motioned to approve the Conditional Use Permit requested by Jake Huffman Enterprises, on the Clayburn property, subject to the conditions stated in the staff report. Commissioner Peatross seconded the motion and it passed unanimously.

E. Request by Jake Huffman Enterprises for a Conditional Use Permit to extract earth products (gravel pit and rock crusher) on approximately five acres of a 37.88-acre parcel owned by Gary Shields, located on the north side of the Lake Boreham Road in the Arcadia area.

Mr. Hyde stated the applicants are proposing to legalize an existing gravel mining and rock crushing operation down the road and to the east of the Clayburn location, on up to five acres of the subject property, with one acre being mined and reclaimed at a time. This activity requires a Conditional Use Permit in the Agricultural-Residential (A-5) zone.

Mr. Hyde stated the zoning code requires a ¼ mile (1,320 foot) separation distance from rock crushers to residential units to help mitigate the public health, safety and welfare impacts of such operations (predominately noise and dust). In this case, aerial photos and the county tax rolls indicate that the closest home, other than that of the property owner, is located about 1,550 feet east of the current crusher location (owned by Jason Kinney) and referred the commission to the photos of the site in their packets. Because of the distance and if the use complies with dust and noise standards, it will not be injurious to public health, safety or welfare.

Mr. Hyde stated the applicants must operate the pit and crusher under a valid DEQ permit. Dust must be controlled using water sprays on the crusher and water trucks, with water hauled from an approved source. A detailed dust control plan must be presented to the TriCounty Health Department for review and approval prior to additional operations at the site.

Mr. Hyde stated the bonding for 1 acre of disturbance would be \$5,000.00. The applicant plans to consecutively disturb and reclaim one acre sections of the

approximate 5 acres available, reducing overall bonding costs. A bond in the appropriate amount will need to be received by the County prior to the start of additional mining operations and maintained during the course of operations.

Mr. Hyde stated in this case the 1,320-foot rule is met, with the nearest residential uses, other than that of the applicant, being approximately 1,550 feet to the southeast of the current crusher location. The county Nuisance Ordinance sets forth time limits during which construction noise is permitted (7:00 AM to 9:30 PM on weekdays, 8:00 AM to 9:30 PM on Saturdays and 9:00 AM to 9:30 PM on Sundays and holidays). The applicant proposes operating hours of weekdays, 9:00 AM to 4:00 PM, which complies with the Nuisance Ordinance.

Mr. Hyde stated it will be interesting to see if there are any noise and dust issues since the applicant has been operating the crusher without a permit.

Mr. Hyde recommended that the Planning Commission approve the Conditional Use Permit requested by Jake Huffman Enterprises, on the Gary Shields property, subject to the following conditions:

1. Applicant shall control dust and noise so neither becomes a nuisance.
 - c. A dust control plan, approved by the TriCounty Health Department, shall be implemented throughout the course of the operations.
 - d. Applicant shall comply with the construction activity noise time limits of the Nuisance Ordinance.
2. Applicant shall maintain a reclamation bond in effect during the course of the mining operations. The bond shall name the County as a beneficiary to the level of at least \$5,000.00 for the first acre and \$3,000.00 per additional acre to be disturbed at any one time.
3. Applicant agrees to reclaim (re-contour) the site at the conclusion of mining operations in a manner acceptable to Duchesne County and the property owner pursuant to the "Material Pit Finishing" standards attached to this letter.
4. Applicant shall provide the county with a copy of the DEQ air quality permit for the crusher prior to further operations at this site. The requirements of the DEQ air quality permit shall also be requirements of the Conditional Use permit.

Mr. Hyde asked if there are any questions of the staff report.

Commissioner Sweat asked Mr. Hyde if the applicant was asked to close the operation since they did not have a permit. Mr. Hyde replied I have required the applicant to apply for a conditional use permit, which they did promptly. They were not asked to shut down.

There was some discussion between the planning commission and concerns with the illegal operations of many companies in the county.

Commissioner Mair asked if there were any other questions. There were none, so the hearing was opened and the applicant was invited to speak.

Mr. Shon McKinnon, a representative of Jake Huffman Enterprises stated as soon as they were notified they needed a Conditional Use Permit they did apply for one and ceased operations at the location. Mr. McKinnon stated Mr. Huffman is in the oil and gas construction business so this is a supply and demand operation.

Commissioner Olsen asked Mr. McKinnon if there is a reason for needing two sites and will the same crusher be at both sites. Mr. McKinnon was not sure about needing two pits and it will be the same crusher.

Mr. Hyde asked how long Mr. Huffman was in operation. Mr. McKinnon was not sure, but once notified they did apply to be in compliance with the county ordinances.

Commissioner Mair asked if there were any other questions or comments.

Jason Kinney, resident next to the location in question, stated the crusher had been operating since the middle of May and has since shut down. The noise and dust issues were not a problem. Mr. Kinney's stated his concerns are his children walk almost a mile on the Lake Boreham Road (with no shoulder, a ditch on one side, a drop off on the other side and trucks that get paid per load) to get to the bus stop. Mr. Kinney stated the kids do play in the area which is their back yard which is only 1500 feet from this site.

Commissioner Peatross asked how many trucks run in and out of the location. Mrs. Kinney stated between the new gas drilling rig and this crusher site it is hard to tell which traffic belongs to which operation.

Mr. Kinney stated the school district will not drop the kids at the driveway, their limit is 1 mile and the Kinney's are nine tenths of a mile. With no shoulder on the road and a speed limit of 45 MPH it is not a safe area for our children.

There was some discussion about the School district and their policies on busing the students to and from school.

Mrs. Kinney requested the hours of operation be limited or to cease hauling of the product during the afternoon to miss the school traffic. Mr. McKinnon stated the applicant would be willing to cease the hauling or change his operation hours.

There was some discussion between the commissioners, Mr. and Mrs. Kinney and Mr. McKinnon about some concessions the applicant and the Kinney's could agree on. Mr. Hyde stated the hours of operation could be from 9-3 to avoid hours the children are using the road. Mr. McKinnon stated he would talk to the applicant but did not see a problem with that suggestion.

Commissioner Mair asked if there were any other questions. Mr. Hyde presented a letter from Mr. and Mr. Miller stating their concerns. As there was no other additional testimony or questions, the public hearing was closed.

Commissioner Peatross motioned to approve the Conditional Use Permit requested by Jake Huffman Enterprises, on the Gary Shields property, subject to the conditions stated in the staff report and adding a fifth condition stating: The applicant shall not allow truck trips during the school year while children are walking on the road to the bus stop (no truck trips before 9:00 AM or after 2:30 PM on school days, unless the Duchesne County School District agrees to provide bus service to the school children's driveways along the Lake Boreham Road). Commissioner Olsen seconded the motion and it passed unanimously.

NEW BUSINESS:

None

Minutes: Approval of July 1, 2009

Commissioner Sweat moved to approve the minutes of July 1, 2009. Commissioner Jorgensen seconded the motion and it passed unanimously.

Commission Comments and Staff Information Items

None

Adjournment:

Meeting adjourned at 7:15 p.m.